

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2913-06
Bill No.: SB 746
Subject: Children and Minors; Health Dept.; Health, Public; Medicaid; Property, Real and Personal; Social Services Dept.; Waste - Hazardous
Type: Original
Date: January 27, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(\$344,035)	(\$1,144,769)	(\$1,945,071)
Total Estimated Net Effect on General Revenue Fund	(\$344,035)	(\$1,144,769)	(\$1,945,071)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
MoPHS Fund	\$41,250	\$34,500	\$27,750
Childhood Lead Test	(\$29,996)	(\$47,380)	(\$57,399)
Total Estimated Net Effect on <u>All</u> State Funds	(\$11,254)	(\$12,880)	(\$29,649)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Federal Funds			
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0

* Revenues and expenditures to exceed \$2 million annually and net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Department of Conservation, Department of Economic Development, Missouri Department of Transportation, Department of Natural Resources, Office of State Public Defender, Office of State Treasurer and Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Missouri Consolidated Health Care Plan (MHP)** state this proposal modifies provisions relating to lead abatement. The proposal would also require the Department of Health and Senior Services and Department of Social Services, along with HCP to devise an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid program. The goal of the strategy is that 75% of children who receive Medicaid be tested for lead poisoning by August 28, 2008. The educational program would be in collaboration with the Department of Social Services and Department of Health and Senior

ASSUMPTION (continued)

Services and although there may be some additional costs associated with the program, it is not expected to have any significant impact on the HCP.

Officials from the **Office of Administration (COA) - Administrative Hearing Commission** assume the proposal will not significantly alter its caseload and therefore, will have no fiscal impact on their organization.

Officials from the **COA - Division of Budget and Planning (BAP)** state the proposed legislation should not result in additional costs or savings to the BAP. The proposal would increase total state revenue.

Officials from **St. Louis County (County)** state it will not realize any increased revenues unless fines are levied against landlords. The County received program funding via a grant from the State based on Center for Disease Control (CDC) funding.

County officials state additional cost will be associated with increased inspection activities, referral and prosecutions in court systems and additional follow-up required to follow property abatement through completion. An estimate of the total costs are unknown.

Oversight assumes cities and counties will issue fines and collect costs for court actions. **Oversight** further assumes that reimbursements and expenditures incurred by local governments will net to \$0.

Officials from the **City of Kansas City - Law Department** assume the proposal will have a minimal fiscal impact on their organization. Any associated costs should be absorbable within current funding levels.

Officials from the **Office of the Secretary of State (SOS)** state this proposal modifies various provisions relating to lead abatement. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 8 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$492 [(8 pp x \$27) + (12 pp x \$23)].

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Health and Senior Services (DOH)** provide the following assumptions regarding the fiscal impact of this proposal:

Revenue generated by fees collected from lead abatement contractors:

It is estimated that the DOH will make 175 revisits to lead abatement projects in FY 05; 174 revisits X \$150 each = \$26,250. However, it is assumed that the number of revisits would decrease each year as lead abatement contractors would comply with state statutes and regulations after having to pay the revisit fee.

Revenue generated by fines against lead abatement contractors:

It is assumed that fines would be assessed for numerous, frequent, and/or more egregious violations (such as creation of lead hazards, improper containment of lead debris, using prohibited work practices, no supervisor on site, unlicensed workers or supervisors on site, etc.). It is assumed that violations of regulations would be identified approximately 15 times per year: 15 violations X \$1,000 each = \$15,000.

Section 701.336.2 - Costs associated with the management of the Childhood Lead Assessment and Testing Programs:

One Health Educator (HE) II would be needed to develop brochures to send to Medicaid providers and/or parents/guardians yearly for each Medicaid child for which a lead test result has not been received according to the DOH lead testing database; develop lists to send to the medical providers of each Medicaid child for which a lead test result has not been received according to the DOH lead-testing database. The HE II would also visit offices of medical providers who have high lead-testing rates to obtain “best practices”; offices of medical providers who have low lead-testing rates to share “best practices” and laboratories to verify and assure that lead testing is being billed to Medicaid and reported as required by law. The HE II would collaborate with Medicaid and other parties to devise and carry out other educational strategies to reach the goal and work with DSS staff to identify children in foster care who have not had a blood lead test. 1 FTE and the usual accompanying expenses including travel for the HE II.

ASSUMPTION (continued)

In addition, DOH states there would be costs associated with the production and mailing of brochures. DOH estimates production and mailing costs would be in FY 05, \$100,501; \$40,201 in FY 06; and \$16,080 in FY 07.

Costs related to childhood lead sample testing by SPHL:

According to the latest data available, 55% of Medicaid clients are not enrolled in MC+ plans. In FY 03 the SPHL (State Public Health Lab) performed 74% of the lead testing on the Missouri Medicaid clients that were not enrolled in Medicaid Managed Care (MC+). Approximately 10% of the samples tested result in a second sample being tested. The SPHL performs less than .5% of the lead tests on those that were enrolled in a MC+ plan. It is assumed this testing percentage will continue as more Medicaid children are tested. It is also assumed the SPHL will test few, if any, non-Medicaid samples as the volume of Medicaid testing increases due to limited laboratory capacity. All foster children are on Medicaid and are thus part of the original population. If additional samples were tested by the SPHL, the cost would be negligible.

Total Medicaid samples – 11,228

FY 03 Total Missouri Medicaid children (6 month – 6 yrs) - 182,729

Medicaid children not enrolled in MC+ plans - 100,932

Projected Samples (Medicaid-non MC+ plan) tested by SPHL

	<u>Year 1*</u> (40%)	<u>Year 2*</u> (60%)	<u>Year 3*</u> (75%)
	29,877	44,815	56,019
	<u>2,988</u> (10% repeat)	<u>4,482</u> (10% repeat)	<u>5,602</u> (10% repeat)
Total	32,865	49,297	61,621
Increase over FY 03			
SPHL workload (11,228)	21,637	38,069	50,393
Revenue raised			
\$9.00/sample**	\$194,730	\$342,621	\$453,539
Projected costs***	<u>(\$357,005)</u>	<u>(\$628,138)</u>	<u>(\$831,488)</u>
Cost over Revenue	(\$162,274)	(\$285,517)	(\$377,950)

*Based upon 40%, 60%, 75% testing of non-MC+ Medicaid child population with SPHL performing 74% of testing.

**Based up 60% Federal share Medicaid reimbursement of \$15 fee schedule.

***@\$16.50/sample SPHL cost (present workload of 11,228 samples not included).

ASSUMPTION (continued)

Staffing - SPHL:

DOH estimates in FY 05, 5 additional FTE would be needed as follows : two Public Health Lab Scientists, one Office Support Assistant, one Storekeeper and one Account Clerk II.

DOH estimates in FY 06, in addition to the above, an additional Senior Public Health Lab Scientist would be needed.

DOH estimates in FY 07, in addition to the above, a Public Health Lab Scientist would be needed.

Oversight has, for fiscal note purposes only, changed the starting salary for the above DOH positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Oversight also assumes the DOH will not need rental space for the one FTE that will not be housed in the State Health Lab.

The DOH states while costs per test run \$16.50, Medicaid revenue is based on the fee schedule set by Medicaid, which is \$15.00 per test. Of that \$15.00, the State Public Health Lab receives only the federal portion, which is 60%, or \$9.00 per test. It is assumed that all costs and revenues will be charged to and deposited in the Childhood Lead Testing Fund in 701.345. It is further assumed that DOH would request additional General Revenue funding through the appropriations process to cover the shortfall (expenses over revenue) in the Childhood Lead Testing Fund (CLTF). Because there are no established spending patterns for this program, DOH cannot determine the breakdown of costs in the CLTF shortfall between personal services and expenses and equipment.

Officials from the **Department of Social Services (DOS) - Division of Medical Services (DMS)** provide the following assumptions regarding the proposal:

Section 701.336.2 - An educational strategy to increase the number of children tested for lead poisoning under the Medicaid program will be devised. No cost is expected from developing the educational strategy. However, increased costs to the Medicaid program are expected if 75% of children eligible for Medicaid are tested for lead poisoning.

ASSUMPTION (continued)

Currently, mandatory lead testing is done on children 12 and 24 months and lead testing is done for children who are considered a high risk for lead poisoning. In FY 02, Medicaid paid for 38,830 tests as a cost of \$582,450 (\$15 per test).

If mandatory testing is done on all Medicaid eligible children six years of age and under, the additional cost to the Medicaid program would be \$2,055,000 (12 month cost). Medicaid eligibles six years of age and under, as of November 2003, totaled 234,440. $234,440 \times 75\% = 175,830$ children - 38,830 (current number of children tested) = 137,000 $\times \$15$ (cost of test) = \$2,055,000.

Since the goal is August 28, 2008, DMS assumes the fiscal impact would not be seen until FY 08.

Section 701.336.4 - This section will have a fiscal impact on the DMS. The DMS is required to seek a waiver for funding of lead prevention cleaning and hazard reduction. According to the DOH, on average 75% of children with lead poisoning are Medicaid eligible. In 2002 (calendar year) the number of children with lead poisoning was 1,157; estimated number of Medicaid eligible individuals is 867 ($1,157 \times .75$). The average cost of lead reduction is \$3,500 (costs based on St Louis' Local Department of Health's program). Annual cost is $867 \times \$3,500 = \$3,034,500$.

DMS assumes a 4.5% inflation rate:

FY 05 - $\$3,034,500 \times 1.045 = \$3,171,053$

FY 06 - $\$3,171,053 \times 1.045 = \$3,313,750 / 2 = \$1,656,875$ (Start date 1/01/06)

FY 07 - $\$3,313,750 \times 1.045 = \$3,462,869$

A waiver will be needed from the Centers of Medicare and Medicaid Services (CMS) before the DMS can begin the program. DMS assumes the program will begin in FY 06. This allows time to write/request a waiver and to receive approval from the CMS.

Section 701.342.5 - This section will not have a fiscal impact on the DMS. If they are considered high risk for lead poisoning, children in the age range listed should be receiving a lead screen as part of the health screen currently done. All Foster Care children are eligible for Medicaid according to the Family Support Division.

Officials from the **DOS - Family Services Division/Children's Division** assume the proposal will have no fiscal impact on their division.

HWC:LR:OD (12/02)

ASSUMPTION (continued)

Officials from **St. Louis City** did not respond to our request for a statement of fiscal impact.

This proposal would result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE			
<u>Costs - Department of Health and Senior Services</u>			
Personal Service Costs (1 FTE)	(\$25,789)	(\$31,720)	(\$32,513)
Fringe Benefits	(\$10,677)	(\$13,132)	(\$13,460)
Equipment and Expense	(\$145,295)	(\$170,704)	(\$175,826)
Transfer of CLTF 40% Share of Test Costs	(\$162,274)	(\$285,517)	(\$377,950)
Total <u>Costs</u> - Department of Health and Senior Services	(\$344,035)	(\$501,073)	(\$599,749)
<u>Costs - Department of Social Services - Division of Medical Services</u>			
Program Costs - Medicaid Waiver - Section 701.336.4	\$0	(\$643,696)	(\$1,345,325)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$344,035)</u>	<u>(\$1,144,769)</u>	<u>(\$1,945,074)</u>
MO PUBLIC HEALTH SERVICES FUND			
<u>Income - Department of Health and Senior Services</u>			
Fines	\$15,000	\$15,000	\$15,000
Administrative Sanctions	\$26,250	\$19,500	\$9,750
Total <u>Income</u> - Department of Health and Senior Services	\$41,250	\$34,500	\$24,750
ESTIMATED NET EFFECT ON MO PUBLIC HEALTH SERVICES FUND	<u>\$41,250</u>	<u>\$34,500</u>	<u>\$27,750</u>

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
CHILDHOOD LEAD TESTING FUND			
<u>Revenues - Department of Health and Senior Services</u>			
Testing Fees	\$194,733	\$342,621	\$453,537
<u>Transfer-In - from General Revenue</u>	\$162,274	\$285,517	\$377,950
<u>Costs - Department of Health and Senior Services</u>			
Personal Service Costs (5, 6, & 7 FTE)	(\$105,606)	(\$166,923)	(\$204,889)
Fringe Benefits	(\$43,721)	(\$69,106)	(\$84,824)
Equipment and Expense	(\$184,834)	(\$355,029)	(\$495,056)
Indirect Costs	<u>(\$52,842)</u>	<u>(\$84,460)</u>	<u>(\$104,117)</u>
Total <u>Costs</u> - Department of Health and Senior Services	<u>(\$387,003)</u>	<u>(\$675,518)</u>	<u>(\$888,886)</u>
ESTIMATED NET EFFECT ON CHILDHOOD LEAD TESTING FUND	<u>(\$29,996)</u>	<u>(\$47,380)</u>	<u>(\$57,399)</u>
FEDERAL FUNDS			
<u>Income - Department of Social Services</u>			
Federal Assistance	\$0	\$1,013,179	\$2,117,544
<u>Costs - Department of Social Services</u>			
Program Costs	<u>\$0</u>	<u>(\$1,013,179)</u>	<u>(\$2,117,544)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS*	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
* Revenues and expenditures to exceed \$2 million annually and net to \$0.			

FISCAL IMPACT - Local Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small business physician offices could be impacted due to increased blood lead testing. In addition, some lead abatement contractors are small businesses. Therefore, the authority to collect fees for revisits and levy fines could impact them if they violate state statutes and regulations.

DESCRIPTION

This proposal modifies the law relating to lead abatement and lead poisoning.

New language in Section 701.304 allows the Director of the Department of Health and Senior Services to levy fines pursuant to sections 701.300 to 701.338, RSMo. All fines shall be deposited into the Public Health Services Fund.

Representatives of the Department, local government or health departments have the authority to re-enter a dwelling or a child-occupied facility to determine if the required actions have been taken. If the representative does not have consent to enter, they may petition the court for an order to enter the premises. An order shall be granted upon a showing that the representative attempted to notify the dwelling's owner in writing and 48 hours in advance of the time and purpose of the re-entry (Section 701.308).

Upon re-entry, if the lead hazard has not been reduced, the Department or representative may report any violation of sections 701.300 to 701.338, RSMo, to the prosecuting attorney of the appropriate county. In addition, the court may impose a fine in an amount which shall reflect the seriousness of the threat to human health. However, this amount shall not exceed \$10,000. The fine shall not be less than \$5,000 if the owner has failed to reduce the identified lead hazard upon proof that: (1) The owner has been notified that a child six and under in his property has an elevated blood lead level; (2) Re-entry revealed that the required actions to reduce the lead were not taken; and (3) Another occupant or child in his dwelling is identified with an elevated blood lead level (Section 701.308).

If the Department revisits an abatement project because a contractor is not present or is in violation of Sections 701.300 to 701.338, RSMo, or any regulations, the lead abatement contractor must pay a fee of \$150 per revisit. In addition, the Department may assess a fine not to

DESCRIPTION (continued)

exceed \$1,000 for the first violation and \$5,000 for each subsequent violation against any inspector, risk assessor, lead abatement worker, lead abatement supervisor, project designer, or contractor licensed by the Department. For continuing violations, every day the violation continues to occur shall be deemed a separate violation (Section 701.311).

The Departments of Health and Senior Services and Social Services, along with related not-for-profits, HMOs, and the MO Consolidated Health Care Plan, shall devise a three-year educational strategy designed to increase the number of children on Medicaid that are tested for lead poisoning. The goal of the strategy is to have 75% of the children tested by August 28, 2008 (Section 701.336).

The Department of Social Services must seek Medicaid waivers for the funding of lead cleaning treatments and lead reduction measures in the properties of Medicaid recipients. The Department will coordinate with the Department of Health and Senior Services to ensure that priority homes receive the appropriate funding and that risk assessments are conducted to identify lead hazards in properties (Section 701.336).

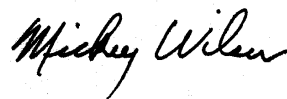
The Department of Social Services, in collaboration with the Department of Health and Senior Services, must ensure that all children between the ages of six months and six years who are in foster care in high risk areas are tested annually for lead poisoning with the costs paid through the state Medicaid program. If any child in foster care in a high risk area is not Medicaid-eligible, the costs of the testing shall be paid by the state (Section 701.342).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration -
 Administrative Hearing Commission
 Office of Budget and Planning
City of Kansas City
Office of State Courts Administrator
Department of Economic Development
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Missouri Department of Transportation
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Office of Secretary of State
Office of State Public Defender
St. Louis County
Office of State Treasurer

NOT RESPONDING: St. Louis City



Mickey Wilson, CPA
Director

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